



Agenda Date: 08/28/00
Agenda Item: 7-A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

CABLE TELEVISION

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|-----------------------------------|---|----------------------------|
| IN THE MATTER OF TIME WARNER |) | <u>ORDER ADOPTING</u> |
| CABLE'S BERGEN FILING OF FCC FORM |) | <u>INITIAL DECISION</u> |
| 1205 DETERMINING REGULATED |) | BPU DOCKET NO. CR99100761 |
| INSTALLATION AND EQUIPMENT COSTS |) | OAL DOCKET NO. CTV10253-99 |

(SERVICE LIST ATTACHED)

BY THE BOARD:

This Order considers the adoption of an Initial Decision to accept a Stipulation of Settlement on final rates entered into by Time Warner Cable, Bergen County ("Petitioner"), as well as Staff of the Board of Public Utilities ("Board"), and the Division of the Ratepayer Advocate ("Ratepayer"). The Stipulation of Settlement settles all issues relating to Petitioner's FCC Form 1205 filing under Docket Number CR99100761 and requires refunds to Petitioner's subscribers.

By way of background, on November 30, 1995, the Federal Communications Commission ("FCC") and Petitioner entered into a Social Contract ("Contract") which resolved 900 Cable Program Service Tier ("CPST") rate complaints that were at the time under the jurisdiction of the FCC. In addition, \$129,719 was refunded to all CPST subscribers in the Petitioner's Bergen, New Jersey system.

Also, under the Contract, Petitioner was allowed to establish a blended average regional rate for the equipment basket categories of hourly service charge, installations and leased equipment for all its systems nationally, on a geographic regional basis with the FCC having the authority to establish FCC Form 1205 rates subject to review and enforcement by the Board.

Through its present filing, Petitioner has received FCC approval to remove itself from the last year of the existing five (5) year Contract and to file directly with the Board for approval of its annual change in rates in its Bergen system.

On September 30, 1999, Petitioner filed an FCC Form 1205 with the Board, in the above Docket, seeking approval of regulated installation and equipment rate adjustments listed on schedule A of the Stipulation for Petitioner's Bergen/Hudson rate district.

On November 16, 1999, the Board transmitted the Petitioner's filing to the Office of Administrative Law ("OAL") to be heard as a contested matter pursuant to N.J.S.A. 5A:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. The matter was assigned to Administrative Law Judge ("ALJ") William Gural.

Petitioner notified its customers of the proposed rates by way of a newspaper announcement informing them of their opportunity to submit written comments to the Board for a period of thirty

(30) days commencing from November 18, 1999 to December 18, 1999. During this period, one (1) comment was received addressing the level of increase proposed for Petitioner's addressable converter.

On March 23, 2000, a pre-transmittal conference was held before ALJ William Gural. This conference was attended by representatives of the Petitioner, the Ratepayer and Board Staff.

On July 12, 2000, after having exchanged discovery, and concluding on-going settlement negotiations, the Parties executed a formal Stipulation of Settlement settling all issues related to the Petitioner's FCC Form 1205 filing and forwarded it to ALJ Gural.

On July 19, 2000, ALJ Gural issued an Initial Decision. In his Initial Decision, Judge Gural found that the Stipulation of Settlement fully disposed of all issues in controversy and was consistent with the law.

Pursuant to the settlement, Petitioner has a refund liability with regard to its monthly rates for addressable converters and remote control devices. Under the Settlement agreement, Petitioner must refund approximately \$173,386.74 plus interest to those subscribers that leased addressable converter or remote control equipment.

By entering into the Stipulation of Final Rates, the parties concluded that upon receipt and review of discovery data, Petitioner's FCC Form 1205 was accurate and in compliance with the FCC's requirements.

The pertinent parts of the Stipulation call for the following:

1. Petitioner notified its customers of the proposed rate changes via newspaper announcements and informed them of their opportunity to submit written comments for a period of thirty (30) days.
2. The effective date for the rate changes for equipment and installation costs under Docket Number CR99100761 was January 1, 2000.
3. The parties agree that the regulated equipment and installation adjustments listed as "Stipulated Rates" on the attached Schedule A are reasonable and shall remain in effect until December 31, 2000.
4. Within sixty (60) days of adoption by the Board of an Order approving the instant Stipulation, Petitioner will refund, by way of a credit on eligible subscriber bills, any overcharges, plus interest, resulting from charging in excess of those listed on Attachment A. Said credit shall be identified on subscriber bills as "BPU Refund".
5. This Stipulation of Settlement resolves all issues raised by Petitioner's Form 1205 filing for the Bergen system in BPU Docket Number CR99100761.

The Board has reviewed the Initial Decision of ALJ Gural and the Stipulation of Settlement and FINDS that they are reasonable, in the public interest and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Initial Decision and Stipulation of Settlement in their entirety, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

The Board's adoption herein of the Initial Decision and the Stipulation of Settlement results in finalization of Petitioner's Form 1205 equipment and installation rates for the period from January 1, 2000 to December 31, 2000 for BPU Docket Number CR99100761.

The Board HEREBY ORDERS that Petitioner issue refunds due its subscribers pursuant to the Stipulation of Settlement within sixty (60) days of the Board's Order, and that Petitioner inform subscribers of the reason for the refunds. Said refunds shall be denominated "BPU Refund". The Board FURTHER ORDERS that Petitioner, within fifteen (15) days of effectuating the entire refund to its subscribers, certify in writing to the Office of Cable Television that said refunds have been completed.

DATED:

BOARD OF PUBLIC UTILITIES
BY:

(signed)

HERBERT H. TATE
PRESIDENT

(signed)

CARMEN J. ARMENTI
COMMISSIONER

(signed)

FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH
SECRETARY

SERVICE LIST

In The Matter Of Time Warner Cable (Bergen County) For Approval Of The Filing Of FCC Form 1205 For Annual Updating Of Maximum Permitted Rates For Regulated Equipment And Installations

BPU Docket Number: CR99100761

OAL Docket Number: CTV10253-99

ORDER ADOPTING INITIAL DECISION

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